

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

QUENTIN D. BETTY,

Plaintiff,

CASE NO. 1:15-cv-445

v.

HON. ROBERT J. JONKER

DANIEL H. HEYNS, *et al.*,

Defendants.

ORDER APPROVING REPORT AND RECOMMENDATION

The Court has reviewed the Magistrate Judge's Report and Recommendation (docket # 27) recommending a denial of Plaintiff's motion for extension of time to serve. Plaintiff filed objections (docket # 28). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(C). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After de novo review in this case, the Court concludes that the Report

and Recommendation is legally sound and factually correct, and the Court therefore adopts it as its decision.

The Plaintiff's Complaint names three unknown defendants (docket # 1, PageID.1). Plaintiff went through grievance procedures in the Michigan Department of Corrections that could have allowed Plaintiff to identify the unknown individuals involved in a timely manner. The Magistrate Judge went through the matter in detail in the Report and Recommendation (docket # 27, PageID.220-221). Plaintiff's objections I and II both essentially argue that the Court should find that good cause exists for an exception to the applicable procedural rules. The Court declines, and instead agrees with the findings in the Report and Recommendation. Plaintiff's objection III claims error in the standard of review, which the Court does not find to be consistent with the law. All three objections are overruled.

IT THEREFORE IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of this Court. Plaintiff's motion for extension of time for service (docket # 17) is **DENIED**.

Dated: February 22, 2016

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE